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6                   **IN THE UNITED STATES DISTRICT COURT**  
7                   **FOR THE DISTRICT OF ARIZONA**

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9       United States of America,

No. 24-08070MJ-001-TUC-EJM

10                  Plaintiff,

**ORDER**

11       v.

12       Reyna Martinez-Aldama,

13                  Defendant.

14

15       Before the Court is the Government's oral motion (Doc. 8) and Appeal (Doc. 9)  
16 (together, "Motion") for Review of Magistrate Judge's Release Order, filed pursuant to 18  
17 U.S.C. § 3145(a). The Motion appeals Magistrate Judge Michael A. Ambri's decision to  
18 release Defendant Reyna Martinez-Aldama on personal recognizance. Doc. 8. Defendant  
19 opposes the Government's Motion. Doc. 12. For the following reasons, the Court will deny  
the Motion (Doc. 9) and affirm the Release Order (Doc. 8).<sup>1</sup>

20           **I. Background**

21       On August 11, 2024, United States Customs and Border Protection officers  
22 (CBPOs) encountered Defendant at the DeConcini Port of Entry in Nogales, Arizona,  
23 attempting to enter the United States from Mexico. Doc. 1. A CBPO asked Defendant  
24 whether she had any controlled substances, firearms, ammunition, or currency greater than  
25 \$10,000, which Defendant denied. *Id.* An x-ray revealed anomalies in the vehicle and a  
26 canine trained to detect narcotics alerted to an odor in the trunk. *Id.* Defendant was referred  
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28       <sup>1</sup> The Court finds these matters appropriate for resolution without an oral hearing. Fed. R.  
Civ. P. 78(b).

1 for a secondary inspection and CBPOs found 11.54 kilograms of methamphetamine  
2 concealed inside the vehicle's spare tire. *Id.* After waiving her *Miranda* rights, Defendant  
3 told law enforcement that, earlier that day, she and her husband went to help a friend  
4 experiencing car trouble. *Id.* Defendant initially stated she was traveling to go shopping at  
5 a mall in Tucson. *Id.* Upon further questioning, Defendant admitted she was traveling to  
6 Tucson to pick up \$3,000 and transport it back to Mexico as a favor to the friend. *Id.*  
7 Defendant denied knowing about the drugs concealed in the vehicle and suggested that her  
8 husband and the friend placed them there. *Id.* CBPOs arrested Defendant. See Docket at  
9 8/11/2024.

10 On August 12, 2024, the Government filed a complaint alleging Defendant  
11 knowingly and intentionally possessed with intent to distribute methamphetamine, in  
12 violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C). Doc. 1.

13 On August 14, 2024, Defendant appeared before Judge Jacqueline M. Rateau and  
14 was ordered detained pending a continuance of the detention hearing. Doc. 2. Pretrial  
15 Services recommended Defendant be detained because there is no condition or  
16 combination of conditions to reasonably assure Defendant's appearance. Docs. 5 and 7.

17 At the conclusion of the hearing on August 20, 2024, Judge Ambri ordered  
18 Defendant released subject to enumerated conditions. Docs. 8 and 8-1. The Government  
19 orally moved to stay Defendant's release pending the outcome of an appeal, which Judge  
20 Ambri granted. *Id.* The Government's oral Motion (Doc. 8) and an appeal (Doc. 9) seek  
21 review of the release order and request Defendant's pretrial detainment.

## 22 **II. Legal Standard**

23 A district court's review of a magistrate judge's detention order is de novo. *See*  
24 *United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir. 1990). The Bail Reform Act  
25 mandates the release of a person pending trial unless the court concludes that "no condition  
26 or combination of conditions will reasonably assure the appearance of the person as  
27 required and the safety of any other person in the community." 18 U.S.C. § 3142(e). The  
28 Court considers four factors from the Bail Reform Act to determine whether to detain or  
release the defendant:

- 1                             (1) the nature and circumstances of the offense charged....;
- 2                             (2) the weight of the evidence against the person;
- 3                             (3) the history and characteristics of the person, including—
- 4                                 (A) the person's character, physical and mental condition,  
5                                 family ties, employment, financial resources, length of  
6                                 residence in the community, community ties, past conduct,  
7                                 history relating to drug or alcohol abuse, criminal history,  
8                                 and record concerning appearance at court proceedings;  
9                                 and
- 10                                 (B) whether, at the time of the current offense or arrest, the  
11                                 person was on probation, on parole, or on other release  
12                                 pending trial, sentencing, appeal, or completion of sentence  
13                                 for an offense under Federal, State, or local law; and
- 14                             (4) the nature and seriousness of the danger to any person or  
15                                 the community that would be posed by the person's release....

16  
17                             *Id.*; 18 U.S.C. § 3142(g).

18                             The Government must prove that the defendant poses a flight risk by a  
19                             preponderance of the evidence. *United States v. Gebro*, 948 F.2d 1118, 1121 (9th Cir.  
20                             1991). The Government must prove the defendant presents a danger to the community by  
21                             clear and convincing evidence. *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir.  
22                             1985). Any doubts about the propriety of release should be resolved in the defendant's  
23                             favor. *Id.* at 1405.

24                             **III. Analysis**

25                             **A. Nature and Circumstances of the Offense**

26                             Defendant was arrested for possession with intent to distribute methamphetamine,  
27                             in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C). Doc. 1. The Court may consider  
28                             the possible punishment and the incentive to flee associated with a defendant's criminal  
exposure. *See United States v. Townsend*, 897 F.2d 989, 995 (9th Cir. 1990).

29                             The United States has a strong interest in preventing the importation of controlled  
30                             substances due to the potential harm they pose to individuals and communities. The  
31                             punishment for violating 21 U.S.C. § 841(a)(1) is up to 20 years in prison. Defendant faces  
32                             a potentially long sentence if convicted and that creates an incentive to flee. The nature and  
33                             circumstances of the offense weigh in favor of detention.

1                   **B. Weight of the Evidence Against Defendant**

2                   The weight of the evidence is the least important factor that the Court considers and  
3                   is not a pretrial determination of guilt. *United States v. Motamedi*, 767 F.2d 1403, 1408  
4                   (9th Cir. 1985); *Townsend*, 897 F.2d at 994. Here, Defendant was the driver, registered  
5                   owner, and sole occupant of a vehicle found to be concealing 11.54 kilograms of  
6                   methamphetamine. Doc. 1. Defendant denied knowing about the methamphetamine  
7                   concealed within the vehicle. *Id.* However, Defendant provided conflicting statements  
8                   about her purpose for coming to Tucson. *Id.* Defendant first stated she was driving to  
9                   Tucson only to go shopping, but later said that she was driving to Tucson to pick up \$3,000  
10                  and bring it back to a friend in Mexico. Doc. 1. The weight of the evidence for the instant  
11                  charges weighs in favor of detention.

12                   **C. History and Characteristics of Defendant**

13                   The Defendant is a 37-year-old female who was born and raised in Hermosillo,  
14                   Sonora, Mexico. Doc. 7 at 2. Defendant has lived in Mexico all her life. *Id.* Defendant has  
15                   resided with her husband (no children) at her present address in Nogales, Sonora, Mexico  
16                   for the past 33 months. Defendant is a citizen of Mexico and possesses an expired Mexican  
17                   passport. *Id.* Defendant travels from Nogales, Mexico to Nogales, Arizona 2 times per  
18                   week for shopping or to donate plasma. *Id.* Defendant has been employed as a quality  
19                   supervisor with Grupo Chamberlain in Nogales, Mexico for the past 33 months. *Id.*

20                   Defendant's mother and two of her siblings live in Hermosillo. *Id.* Defendant is in  
21                   monthly contact with them. *Id.* Defendant also has a sister living in Antioch, California. *Id.*  
22                   This sister has no legal status in the U.S., but her significant other is a legal permanent  
23                   resident. *Id.* Defendant is welcome to live with them in California upon release. *Id.*  
24                   According to Pretrial Services, Defendant's sister's significant other is a suitable third-party  
25                   custodian. *Id.*

26                   Defendant is in good physical and mental health. *Id.* at 3. Defendant reports  
27                   consuming alcohol twice per year, and that she last consumed alcohol a few weeks before  
28                   her arrest. *Id.* at 3. Defendant has no other substance use history and has no history of  
                        treatment or problems related to her substance use. *Id.*

1           Defendant has no known criminal history. *Id.*

2           The Government argues there are no factors that would reasonably assure the  
3 appearance of Defendant. Doc. 9 at 3. Defendant has lifelong ties to Mexico and no legal  
4 status in the United States. *Id.* The Government also points to the evidence of guilt here as  
5 a strong incentive for Defendant to flee to Mexico upon release. *Id.*

6           Defendant argues that the presumption of detention has been rebutted in this case.  
7 Doc. 12 at 1. While Defendant has significant ties to Mexico, she also has ties to her sister,  
8 nephews, and brother-in-law in California. *Id.* Defendant's brother-in-law—who was  
9 deemed to be a suitable third-party custodian—drove from California to attend the hearing  
10 in-person. *Id.* at 1–2. He agreed to abide by the Court's mandate and ensure Defendant  
11 shows up for her hearings and complies with court orders. *Id.* at 2.

12          Defendant is a lifelong resident of Mexico, and she has significant familial,  
13 relationship, and employment ties to Mexico. Defendant has no criminal history or  
14 substance abuse issues that would suggest a risk for failing to appear. Defendant has family  
15 in the United States, but the nature of that relationship is no disincentive to her fleeing back  
16 to her home in Mexico to avoid prosecution. Considered together, the Defendant's history  
17 and characteristics weigh in favor of detention.

18          **D. Dangerous Nature**

19          The Government does not argue that Defendant's release poses a danger to person  
20 or community. *See* Doc. 9. Defendant is not being charged with a violent offense and  
21 Defendant has no prior criminal history. Doc. 7 at 3–4. Defendant's release is unlikely to  
22 pose a danger to person or community. This factor weighs in favor of release.

23          **IV. Conditions of Release**

24          A person facing trial is entitled to release under the least restrictive conditions that  
25 will reasonably assure the appearance of the person and should only be denied in rare  
26 circumstances. *Motamedi*, 767 F.2d at 1405. Even in the presence of risk, a defendant must  
27 still be released if there are conditions of release that may be imposed to mitigate the flight  
28 risk or risk to the community. *See* 18 U.S.C. § 3142(e). Any doubts about the propriety of  
release should be resolved in Defendant's favor. *Motamedi*, 767 F.2d at 1405.

1       The Government has raised concerns about Defendant's risk of nonappearance due  
2 to her substantial ties to Mexico. Pretrial Services found that no condition could reasonably  
3 assure Defendant's appearance in court and recommended Defendant be detained. Doc 7.  
4 The Court finds by a preponderance of the evidence that Defendant is a flight risk and that  
5 no condition or combination of conditions will reasonably assure the appearance of  
6 Defendant on her own recognizance.

7       **V. Order**

8           Accordingly,

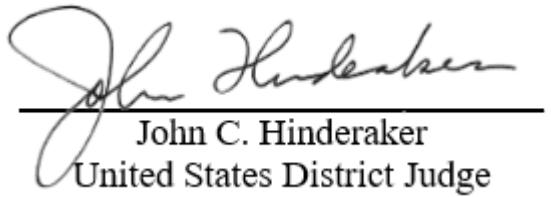
9           **IT IS ORDERED GRANTING** the Government's Oral Motion (Doc. 8) and  
10 Appeal (Doc. 9).

11           **IT IS FURTHER ORDERED DENYING** Defendant's Emergency Motion in  
12 Opposition to Government's Request (Doc. 12).

13           **IT IS FURTHER ORDERED REVOKING** Judge Ambri's Release Order  
14 (Doc. 8). Defendant shall remain in custody pending trial.

15           Dated this 26th day of August, 2024.

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John C. Hinderaker  
United States District Judge